Testimony of the Michigan Medical Marijuana Association
House Judiciary Committee
December 5, 2013

HB 5104 – Opposed, amendments offered

This bill offers changes to the definition of "usable marihuana" that are intended to correct an erroneous Court of Appeals ruling in People v Carruthers which has effectively removed MMMA protections for possession of medical marihuana-infused edibles and other extracts. The change to the definition of "usable marihuana" in 3(k) is the central change needed to accomplish this goal, and most of the other changes made in this bill are superfluous, unnecessary, and confusing.

Sprinkled throughout the bill are numerous small edits to remove the term "medical marijuana" and replace it with the phrase "medical use of marihuana," a defined term under section 3, or to add "usable marihuana" everywhere the term "marihuana" is used. These proposed changes do not add clarity, and possibly change meaning in an unforeseeable way, as each of the changes will be interpreted in context by the courts, during criminal prosecutions.

There is no need to redefine medical use to include extraction in 3(f), as this is clearly the allowed manufacture of "usable marihuana" under a new, clarified 3(k).

The very subtle change made in section 4(b) directed by the Court of Appeals in People v Carruthers is necessary to properly Legislatively overturn the ruling, and should be echoed in section 4(a) for patients, as well as section 4(d) for the presumption of medical use.

These corrective changes are reflected in the attached proposed language. We oppose the bill as written.

Because Mr. Carruthers is appealing to the Supreme Court, the Legislature should wait to Act only if needed to clarify or reverse the Court's ruling. The current, pre-amendment definition in section 3(k) of the MMMA is a definition of usable marihuana that clearly includes marihuana-infused edibles and other extracts, but has been misinterpreted by the Court of Appeals to an absurd end. This ruling should be clarified by the Supreme Court rather than the Legislature. It is obvious when reading the ballot language of the voter initiative that the electorate did not contemplate the fine line drawn by the Court of Appeals between "marihuana" and "usable marihuana."

HB 4271 – Neutral, amendments offered

This bill interacts in such a direct way with the MMMA, it should require a 3/4 vote. Every definition in its section 1 references the Michigan Medical Marihuana Act or uses a term defined within the Act. It has a definition of "usable marihuana" that does not synchronize with HB 5104.

The "local option" wording used throughout sections 2, 5, 7, 9, and 10 of the bill is a limitation to statewide access that is impossible to support, particularly the ability for a municipality to completely prohibit Provisioning Centers from operating, as described by Section 5(1). State law and access requirements for medical marihuana should be uniform for clarity for patients. This is a foundational issue with this bill.

The bill offers much greater protections to provisioning center owners than to the patients themselves,

with no weight or count limits to those protections, resulting in a greater presumption of medical use than that extended to patients and their caregivers.

The current version of the bill protects unlimited and unregulated large-scale growing by provisioning centers, and the substitute versions available allow transfers from out-of-state patients, clearly leading to violations of Federal Law.

This bill does not offer necessary protection to patients and caregivers that transfer to provisioning center owners, as those transfers would violate 4(a), 4(b), and possibly 4(k) of the Act. The MMMA would need to be amended to offer protection for transferring patient or caregiver "overages," and pragmatically, for additional allowed weight. Giving patients and caregivers cash incentive to grow excess medical marihuana without giving them additional protections will lead to more arrests.

A better, clearer, and easier way to address any access issues within the patient-caregiver system would be to allow each patient to assign two caregivers, and to allow each caregiver to double their patients, with no additional plants. This type of basic change to improve access would be fully supported by our organization, and is included in the simple attached proposed amendment to section 6 of the MMMA.

SB 660 - Opposed

This bill does not outline a model that would work under Federal rescheduling to schedule II, as schedule II controlled substances are prescribed by doctors, and those prescriptions are filled by pharmacies. Additional registration, identification, tracking, and monitoring of patients will not be necessary, desired, or legal if Federal rescheduling occurs.

This bill will not function at all under current Federal Law, according to its sponsors, and we agree.

It is impossible to support a theoretical bill that doesn't do anything at this time, and does not actually address the issues that this committee purports to address, since it cannot be implemented. Additionally, marihuana is not dangerous, nor addictive, and does not meet the criteria for classification as a controlled substance. It is an herbal medicine that does not require restrictive regulation, as proposed by SB 660. We have provided more details regarding the current status of medical marihuana as a controlled substance, and amendments to the Public Health Code to correct it, in the attached supplemental.

While the objective of SB 660 is seemingly to give patients a choice, it does not allow patients to join both programs simultaneously, and patients with a felony history would not be treated by this program; both discriminate towards patients needing these programs. The publication of the patient registry in the Law Enforcement Information Network (LEIN) described by section 8153(1) is a privacy violation on its face, even if it excludes the patient's associated medical information.

With respect to the high standards claimed by the moniker "Pharmaceutical Grade Marihuana," it seems that many patients don't believe that a healthful product can come from a process that requires irradiation, and some even fear negative effects from the irradiation itself.

In addition, we have been told that Prairie Plant Systems, the company whose contributions and lobbying initiated this bill, has a corporate history that includes the inadvertent release of genetically modified material, damaging the surrounding crops. Many patients are wary of ingesting genetically modified crops of any kind, especially by inhalation.

Conclusion

We would note for the Committee that patients and their caregivers are still arrested during law enforcement encounters, and have their plants, medicine, and personal items seized under civil forfeiture law. Certain courts have not yet received the message that the MMMA provides, as the ballot initiative stated in 2008, a medical defense for registered and unregistered patients and caregivers to any prosecution involving marihuana, and have instead perverted the enhanced definition of bona fide physician-patient relationship provided by last session's P.A. 512 to engage in lengthy litigation against patients and their caregivers, many of whom have few resources for defense. Changes should be made to acknowledge the medical use of marihuana directly in the Public Health Code to prevent this from happening. These proposed changes are described in detail in the accompanying supplemental.

It is difficult to understand how such sweeping changes can be made in reference to, and directly affecting, the Michigan Medical Marihuana Act and its participants without being subject to a 3/4 vote. Section 7(e) of the Act clearly shows the voter's initiative was meant to "occupy the field" of medical marihuana legislation in the State of Michigan.

(e) All other acts and parts of acts inconsistent with this act do not apply to the medical use of marihuana as provided for by this act.

Michael A. Komorn, President
Chad Carr, Administrator

Testimony of the Michigan Medical Marijuana Association
Supplemental Recommendations
House Judiciary Committee
December 5, 2013

The Michigan Medical Marijuana Association recommends the Legislature adopt the following measures to correct continuing implementation issues regarding the Act:

1) Amend the Public Health Code allowing for the Medical Use of Marihuana;
2) Remove marihuana from the schedule of controlled substances in MCL 333.7212 and the statues describing criminal penalties in MCL 333.7401 et. seq.;
3) End Criminal Prosecutions for Medical Marihuana.

Medical marijuana is no longer a controlled substance, but does have medicinal value. It is not a controlled system by which patients obtain it. It is a separate state system, and the Legislature, independent of Federal Law, is obligated to implement these basic principles, as outlined in the initiative, specifically the preamble: the declarations and findings in section 2. This is the Legislature's duty and responsibility. Note that the Michigan Supreme Court has never addressed the above mentioned sections and how they impact the Public Health Code itself.

The Michigan Supreme Court has addressed issues relative to the MMMA on four occasions. In each of the opinions they have consistently interpreted the MMMA as an exemption and not a right, subjecting patients and caregivers to prosecution pursuant to the prohibitions of the Public Health Code. The reasoning by which the Supreme Court has resolved all issues has been to give deference to this fourth paragraph of the 2008 Proposition 1 voter initiative: providing a medical defense for registered and unregistered patients and caregivers to any charges involving marihuana. This has been the sole basis by which patients and caregivers have been able to defend themselves. In expanding the affirmative defense, the Courts at the same time have limited the Section 4 Immunity provisions, in some instances limiting it in ways that have made the act unworkable. The medical marihuana affirmative defense, while appreciated by the medical cannabis community, unfortunately only becomes available after criminal charges and forfeiture proceedings have commenced. This is not what the voters intended, and the current interpretation and analysis by the Michigan Supreme Court, finding the protections of the Act as merely an affirmative defense, is flawed because it fails to recognize the voters' true intent as outlined in the Findings and Declaration section of the Michigan Medical Marihuana Act:

333.26422 Findings, declaration.
2. Findings.
Sec. 2. The people of the State of Michigan find and declare that:

(a) Modern medical research, including as found by the National Academy of Sciences' Institute of Medicine in a March 1999 report, has discovered beneficial uses for marihuana in treating or alleviating the pain, nausea, and other symptoms associated with a variety of debilitating medical conditions.

By definition, the declaration that "beneficial uses for marihuana in treating…" clearly displays the voters intended marijuana to be unscheduled or not a schedule 1 controlled substance. Review of the 333.7212 Schedule 1; controlled substances, indicates that none of the substances listed within the list includes controlled substances that can be grown by a person or individual. Or said another way, the listed substances are substances that are controlled and can only be acquired through a controlled and regulated system, one that does not include individual who produce and or manufacturer the substance in their homes. To the contrary, the MMMA allows the Medical Use (333.26423 (f) "Medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition) of marijuana for qualifying patients and caregivers MCL 333.26424(a)(b). No other substance listed in MCL 333.7212 et. seq. would allow for such cultivation. The inclusion of marihuana in the same category as any of these substances is contradictory on its face. Additionally, to allow marihuana to be defined and considered as a controlled substance, similar to those within MCL 333.7212 et. seq. ignores the voters' intent of declaring marihuana as a medicine outside of the traditional medicines in controlled regulated systems.

Prosecutions for marihuana violations are still brought pursuant to the Public Health Code, a statutory scheme that prohibits any activity with marihuana and criminalizes any activity because of its contradictory label as a schedule 1 controlled substance. It is difficult to ignore the declarations section of the MMMA, an initiative with an overwhelming 63% of the citizens voting in favor of identifying marihuana as having medical benefits, or defined differently than its current schedule 1 controlled substance classification, contradictory the current prosecutions of individuals in the State of Michigan.

In all four of the Michigan Supreme Court opinions directly addressing the Michigan Medical Marihuana Act, the analysis that has emerged from the Courts has consistently limited the intent of the voters:

1) *People v King/Kolanek*, 25 Kolanek, 491 Mich at 394 (page 10)
2) *People v Bylsma*, 493 Mich 17, (page 7-8) (quoting *People v King/Kolanek*, 25 Kolanek, 491 Mich at 394)
3) *State v McQueen*, 493 Mich 135, page 10 (quoting 25 Kolanek, 491 Mich at 394)
4) *People v Koon,* The Michigan Supreme Court _Docket No. 145259_Decided May 21, 2013, page 7 (quoting, *People v Kolanek*, 491 Mich 382; 817 NW2d 528 (2012); *People*

v Bylsma, 493 Mich 17; 825 NW2d 543 (2012); *Michigan v McQueen*, 493 Mich 135; 828 NW2d 644 (2013).

The MMMA does not create a general right for individuals to use and possess marijuana in Michigan. Possession, manufacture, and delivery of marijuana remain punishable offenses under Michigan law. (See MCL 333.7403(2)(d) (making possession of marijuana a misdemeanor); MCL 333.7401(2)(d) (making the manufacture or delivery of marijuana or the possession of marijuana with intent to deliver it a felony). Marijuana remains a schedule 1 substance in Michigan's Public Health Code, MCL 333.7212(1)(c), and medical use of marijuana is not recognized as a legal activity at the federal level. The MMMA acknowledges that federal law continues to prohibit marijuana use, but justifies allowing limited marijuana use on the grounds that research suggests that marijuana has beneficial medical uses, the majority of marijuana prosecutions are made under state law, and states are not required to enforce federal laws. MCL 333.26422.) Rather, the MMMA's protections are limited to individuals suffering from serious or debilitating medical conditions or symptoms, to the extent that the individuals' marijuana use "is carried out in accordance with the provisions of [the MMMA]." *People v Koon*, The Michigan Supreme Court _Docket No. 145259_Decided May 21, 2013, page 7 (quoting, *People v Kolanek*, 491 Mich 382; 817 NW2d 528 (2012); *People v Bylsma*, 493 Mich 17; 825 NW2d 543 (2012); *Michigan v McQueen*, 493 Mich 135; 828 NW2d 644 (2013).

The MMMA suggests that the legislature amend the Public Health Code's current prohibitions for marihuana use when it is for medical purposes. By amending the law in this way, the voters' intent will be facilitated and the misinterpretation of the MMMA as an exemption will instead be recognized as a legal right. In doing so the MMMA believes only then that the Act will have the practical effect of protecting from arrest the vast majority of seriously ill people who have a medical need to use marihuana.

HOUSE BILL No. 5104

October 29, 2013, Introduced by Reps. Kowall, Shirkey, Callton, Goike, Daley, Crawford, Irwin, McMillin, Cavanagh, LaVoy, Lipton, Geiss, Bumstead, Singh, Switalski and Barnett and referred to the Committee on Judiciary.

A bill to amend 2008 IL 1, entitled

"Michigan medical marihuana act,"

by amending sections 3 and 4 (MCL 333.26423, 333.26424, 333.26427, and 333.26428).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

3. Definitions

Sec. 3. As used in this act:

(a) "Bona fide physician-patient relationship" means a treatment or counseling relationship between a physician and patient in which all of the following are present:

(1) The physician has reviewed the patient's relevant medical records and completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation of the patient.

(2) The physician has created and maintained records of the

patient's condition in accord with medically accepted standards.

(3) The physician has a reasonable expectation that he or she will provide follow-up care to the patient to monitor the efficacy of the use of medical marihuana as a treatment of the patient's debilitating medical condition.

(4) If the patient has given permission, the physician has notified the patient's primary care physician of the patient's debilitating medical condition and certification for the use of medical marihuana to treat that condition.

(b) "Debilitating medical condition" means 1 or more of the following:

(1) Cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of these conditions.

(2) A chronic or debilitating disease or medical condition or its treatment that produces 1 or more of the following: cachexia or wasting syndrome; severe and chronic pain; severe nausea; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis.

(3) Any other medical condition or its treatment approved by the department, as provided for in section 6(k).

(c) "Department" means the department of licensing and regulatory affairs.

(d) "Enclosed, locked facility" means a closet, room, or other comparable, stationary, and fully enclosed area equipped with secured locks or other functioning security devices that permit access only by a registered primary caregiver or registered qualifying patient. Marihuana plants grown outdoors are considered to be in an enclosed, locked facility if they are not visible to the unaided eye from an adjacent property when viewed by an individual at ground level or from a permanent structure and are grown within a stationary structure that is enclosed on all sides, except for the base, by chain-link fencing, wooden slats, or a similar material that prevents access by the general public and that is anchored, attached, or affixed to the ground; located on land that is owned, leased, or rented by either the registered qualifying patient or a person designated through the departmental registration process as the primary caregiver for the registered qualifying patient or patients for whom the marihuana plants are grown; and equipped with functioning locks or other security devices that restrict access to only the registered qualifying

patient or the registered primary caregiver who owns, leases, or rents the property on which the structure is located. Enclosed, locked facility includes a motor vehicle if both of the following conditions are met:

(1) The vehicle is being used temporarily to transport living marihuana plants from 1 location to another with the intent to permanently retain those plants at the second location.

(2) An individual is not inside the vehicle unless he or she is either the registered qualifying patient to whom the living marihuana plants belong or the individual designated through the departmental registration process as the primary caregiver for the registered qualifying patient.

(e) "Marihuana" means that term as defined in section 7106 of the public health code, 1978 PA 368, MCL 333.7106.

(f) "Medical use" means the acquisition, possession, cultivation, manufacture, use, internal possession, delivery, transfer, or transportation of marihuana, or paraphernalia relating to the administration of marihuana to treat or alleviate a registered qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

(g) "Physician" means an individual licensed as a physician

under Part 170 of the public health code, 1978 PA 368, MCL 333.17001 to 333.17084, or an osteopathic physician under Part 175 of the public health code, 1978 PA 368, MCL 333.17501 to 333.17556.

(h) "Primary caregiver" or "caregiver" means a person who is at least 21 years old and who has agreed to assist with a patient's medical use of marihuana and who has not been convicted of any felony within the past 10 years and has never been convicted of a felony involving illegal drugs or a felony that is an assaultive crime as defined in section 9a of chapter X of the code of criminal procedure, 1927 PA 175, MCL 770.9a.

(i) "Qualifying patient" or "patient" means a person who has been diagnosed by a physician as having a debilitating medical condition.

(j) "Registry identification card" means a document issued by the department that identifies a person as a registered qualifying patient or registered primary caregiver.

(k) "Usable marihuana" means the dried leaves, ~~and~~ flowers, **PLANT RESIN, OR EXTRACT** of the marihuana plant, and any mixture or preparation thereof, but does not include the seeds, stalks, and roots of the plant **OR ANY INACTIVE SUBSTANCE USED AS A DELIVERY MEDIUM FOR USABLE MARIHUANA.**

(l) "Visiting qualifying patient" means a patient who is not a

resident of this state or who has been a resident of this state for less than 30 days.

(m) "Written certification" means a document signed by a physician, stating all of the following:

(1) The patient's debilitating medical condition.

(2) The physician has completed a full assessment of the patient's medical history and current medical condition, including a relevant, in-person, medical evaluation.

(3) In the physician's professional opinion, the patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition.

4. Protections for the Medical Use of Marihuana.

Sec. 4. (a) A qualifying patient who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for the medical use of marihuana in accordance with this act, provided that the qualifying patient possesses an amount of **USABLE** marihuana that does not exceed 2.5 ounces ~~of~~

~~usable marihuana~~, and, if the qualifying patient has not specified that a primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility. Any incidental amount of seeds, stalks, and unusable roots shall also be allowed under state law and shall not be included in this amount. The privilege from arrest under this subsection applies only if the qualifying patient presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the qualifying patient.

(b) A primary caregiver who has been issued and possesses a registry identification card shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for assisting a qualifying patient to whom he or she is connected through the department's registration process with the medical use of marihuana in accordance with this act. The privilege from arrest under this subsection applies only if the primary caregiver presents both his or her registry identification card and a valid driver license or government-issued identification card that bears a photographic image of the primary

caregiver. This subsection applies only if the primary caregiver possesses an amount of **USABLE** marihuana that does not exceed:

(1) 2.5 ounces ~~of usable marihuana~~ for each qualifying patient to whom he or she is connected through the department's registration process; and

(2) for each registered qualifying patient who has specified that the primary caregiver will be allowed under state law to cultivate marihuana for the qualifying patient, 12 marihuana plants kept in an enclosed, locked facility; and

(3) any incidental amount of seeds, stalks, and unusable roots.

(c) A person shall not be denied custody or visitation of a minor for acting in accordance with this act, unless the person's behavior is such that it creates an unreasonable danger to the minor that can be clearly articulated and substantiated.

(d) There shall be a presumption that a qualifying patient or primary caregiver is engaged in the medical use of marihuana in accordance with this act if the qualifying patient or primary caregiver:

(1) is in possession of a registry identification card; and

(2) is in possession of an amount of **USABLE** marihuana that does not exceed the amount allowed under this act.

The presumption may be rebutted by evidence that conduct related to marihuana was not for the purpose of alleviating the qualifying patient's debilitating medical condition or symptoms associated with the debilitating medical condition, in accordance with this act.

(e) A registered primary caregiver may receive compensation for costs associated with assisting a registered qualifying patient in the medical use of marihuana. Any such compensation shall not constitute the sale of controlled substances.

(f) A physician shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by the Michigan board of medicine, the Michigan board of osteopathic medicine and surgery, or any other business or occupational or professional licensing board or bureau, solely for providing written certifications, in the course of a bona fide physician-patient relationship and after the physician has completed a full assessment of the qualifying patient's medical history, or for otherwise stating that, in the physician's professional opinion, a patient is likely to receive therapeutic or palliative benefit from the medical use of marihuana to treat or alleviate the patient's serious or debilitating medical condition or symptoms associated with the serious or debilitating medical

condition, provided that nothing shall prevent a professional licensing board from sanctioning a physician for failing to properly evaluate a patient's medical condition or otherwise violating the standard of care for evaluating medical conditions.

(g) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, for providing a registered qualifying patient or a registered primary caregiver with marihuana paraphernalia for purposes of a qualifying patient's medical use of marihuana.

(h) Any marihuana, marihuana paraphernalia, or licit property that is possessed, owned, or used in connection with the medical use of marihuana, as allowed under this act, or acts incidental to such use, shall not be seized or forfeited.

(i) A person shall not be subject to arrest, prosecution, or penalty in any manner, or denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business or occupational or professional licensing board or bureau, solely for being in the presence or vicinity of the medical use of marihuana in accordance with this act, or for assisting a registered qualifying patient with using or administering marihuana.

(j) A registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States that allows the medical use of marihuana by a visiting qualifying patient, or to allow a person to assist with a visiting qualifying patient's medical use of marihuana, shall have the same force and effect as a registry identification card issued by the department.

(k) Any registered qualifying patient or registered primary caregiver who sells marihuana to someone who is not allowed to use marihuana for medical purposes under this act shall have his or her registry identification card revoked and is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both, in addition to any other penalties for the distribution of marihuana.

HOUSE BILL No. 4271

February 19, 2013, Introduced by Reps. Callton, McMillin, Pettalia, Bumstead, Foster, Daley, Irwin, Dillon, Stanley, Hovey-Wright, MacMaster, Ananich, Stallworth, Cavanagh, Singh, Yonker and Potvin and referred to the Committee on Judiciary.

A bill to regulate medical marihuana provisioning centers and other related entities; to provide for the powers and duties of certain state and local governmental officers and entities; to provide immunity for persons engaging in certain activities in compliance with this act; to prescribe penalties and sanctions and provide remedies; and to allow the promulgation of rules.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. This act shall be known and may be cited as the "medical marihuana provisioning center regulation act".

Sec. 2. As used in this act:

(a) "Debilitating medical condition" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(b) "Excluded felony offense" means a felony involving illegal

drugs. Excluded felony offense does not include a conviction for activity allowed under the Michigan medical marihuana act or this act, even if the activity occurred before the enactment of this act or the Michigan medical marihuana act.

(c) "Marihuana" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(d) "Medical marihuana" means marihuana for medical use as that term is defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(e) "Medical marihuana provisioning center" or "provisioning center" means a commercial entity located in this state that acquires, possesses, cultivates, manufactures, delivers, transfers, or transports medical marihuana and sells, supplies, or dispenses medical marihuana to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where medical marihuana is sold to registered qualifying patients and registered primary caregivers.

(f) "Michigan medical marihuana act" means the Michigan medical marihuana act, 2008 IL 1, MCL 333.26421 to 333.26430.

(g) "Municipality" means a city, township, or village.

(h) "Paraphernalia" means drug paraphernalia as defined in section 7451 of the public health code, 1978 PA 368, MCL 333.7451,

that is or may be used in association with medical marihuana.

(i) "Provisioning center agent" means a principal officer, board member, employee, or operator, or any other individual acting as an agent of a provisioning center.

(j) "Registered primary caregiver" means a person who has a valid, unexpired registry identification card as a primary caregiver or who satisfies the criteria listed in section 9(b) or (c) of the Michigan medical marihuana act, MCL 333.26429, and possesses the documentation that constitutes a valid registry identification card under that section.

(k) "Registered qualifying patient" means a person who meets any of the following requirements:

(*i*) Has a valid, unexpired registry identification card as a qualifying patient.

(*ii*) Satisfies the criteria listed in section 9(b) or (c) of the Michigan medical marihuana act, MCL 333.26429, and possesses the documentation that constitutes a valid registry identification card under that section.

(*l*) "Registry identification card" means that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(m) "Safety compliance facility" means an entity that tests marihuana produced for medical use for contaminants or potency.

(n) "Safety compliance facility agent" means a principal

officer, board member, employee, operator, or agent of a safety compliance facility.

(o) "Seedling" means a marihuana plant that has no flowers, is less than 12 inches in height, and is less than 12 inches in diameter.

(p) "Usable marihuana" means ~~the completely dried leaves and flowers of the marihuana plant but does not include the seeds, stalks, nondried leaves, or roots of the plant. Any cooking mixture or preparation used to prepare marihuana infused ingestible or topical products is not usable marihuana, if the ingestible or topical product has or will have the amount of actual marihuana plant material used in its preparation clearly marked on its packaging~~ that term as defined in section 3 of the Michigan medical marihuana act, MCL 333.26423.

(q) "Visiting qualifying patient" means a patient who is not a resident of this state or who has been a resident of this state for less than 30 days and who possesses a registry identification card, or its equivalent, that was issued under the laws of another state, district, territory, commonwealth, or insular possession of the United States and that allows the use of medical marihuana by the patient.

Sec. 3. (1) Except as otherwise provided in this act, if a provisioning center has been granted any applicable required

municipal registration or license and is operating in compliance with this act and any applicable municipal ordinance, the provisioning center, and the provisioning center agents acting on its behalf are not subject to any of the following for engaging in activities described in subsection (2):

(a) Criminal penalties under state law or local ordinances.

(b) State or local civil prosecution.

(c) Search or inspection, except for an inspection authorized by the municipality.

(d) Seizure.

(e) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.

(2) Activities that are exempt from regulation and sanctions under subsection (1) include all of the following:

(a) Purchasing or receiving marihuana seeds ~~to grow medical marihuana~~ from ~~visiting qualifying patients,~~ registered qualifying patients, **OR** registered primary caregivers~~, or provisioning centers~~.

(b) ~~Purchasing or receiving medical marihuana, including seedlings, from 1 or more other provisioning centers if purchasing or receiving medical marihuana from the provisioning center is not prohibited by the municipality where the provisioning center is located~~.

(c) Purchasing or receiving medical marihuana from a registered qualifying patient or a registered primary caregiver ~~if purchasing or receiving medical marihuana from a registered qualifying patient or registered primary caregiver is not prohibited by the municipality where the provisioning center is located and~~ if the amount purchased does not exceed the registered qualifying patient's or registered primary caregiver's medical marihuana possession limits under the Michigan medical marihuana act.

(d) ~~Cultivating or manufacturing medical marihuana~~.

(e) Possessing or manufacturing paraphernalia.

(f) Possessing or processing medical marihuana ~~produced by the provisioning center or~~ obtained pursuant to subdivision (a) or ~~(b)~~ (C) on the provisioning center premises or while the medical marihuana is being transported pursuant to this section.

(g) ~~If not prohibited by municipal law~~, transporting medical marihuana, including seedlings, between the provisioning center and another provisioning center or a safety compliance facility.

(h) Transporting or delivering medical marihuana or paraphernalia to the residence of a registered qualifying patient or a registered primary caregiver ~~if transportation and delivery are not prohibited by the municipality in which the transportation and delivery occur~~.

(i) Supplying, selling, dispensing, transferring, or delivering medical marihuana, paraphernalia, or related supplies and educational materials in compliance with the procedures and limitations detailed in section 7(11) to (13).

Sec. 3a. ~~An entity that, on the effective date of this act, is operating in this state as a provisioning center, is operating and continues to operate in compliance with this act, and is not prohibited by any applicable municipal ordinance may continue to operate as a provisioning center under this act. An entity described in this section is considered a provisioning center under this act, and the entity and the agents acting on its behalf are eligible for the immunity provided in this act and are subject to the penalties, sanctions, and remedies prescribed or provided in this act~~.

Sec. 4. (1) Except as otherwise provided in this act, a safety compliance facility that has been granted any applicable required municipal registration or license and is operating in compliance with any applicable municipal ordinance and this act is not subject to any of the following for engaging in activities described in subsection (2):

(a) Criminal penalties under state law or local ordinances.

(b) State or local civil prosecution.

(c) Search or inspection, except for an inspection authorized

by the municipality.

(d) Seizure.

(e) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.

(2) Activities that are exempt from regulation and sanction under subsection (1) include all of the following:

(a) ~~Acquiring or~~ possessing medical marihuana obtained from registered qualifying patients, registered primary caregivers, or provisioning centers.

(b) Returning the medical marihuana to the registered qualifying patient, registered primary caregiver, or provisioning center that delivered the medical marihuana to the safety compliance facility.

(c) ~~Transporting medical marihuana to or from a registered qualifying patient, registered primary caregiver, or provisioning center.~~

(d) Possessing medical marihuana on the safety compliance facility's premises for testing, if the medical marihuana was obtained pursuant to subdivision (a) ~~or (b)~~.

(e) Receiving compensation for actions permitted pursuant to this section and municipal law.

Sec. 5. (1) ~~A municipality may prohibit the operation of~~

~~provisioning centers or safety compliance facilities within the municipality. A provisioning center is not exempt under section 3 from state criminal and civil penalties if it operates in a municipality that prohibits provisioning centers. A safety compliance facility is not exempt under section 4 from state criminal and civil penalties if it operates in a municipality that prohibits safety compliance facilities~~.

(2) A municipality may enact an ordinance to impose and enforce additional **REASONABLE** local requirements on provisioning centers or safety compliance facilities. A municipality may require and issue a registration or license to a provisioning center or safety compliance facility and may regulate operations and impose civil ~~or criminal~~ penalties for the violations of the local ordinance. A municipality may charge a registration or licensing fee for a provisioning center or safety compliance facility that does not exceed the costs to the municipality of regulation, licensing, testing, and inspection.

(3) A provisioning center or safety compliance facility located in a municipality that requires a registration or license is exempt under section 3 or 4 from criminal penalties only if the provisioning center or safety compliance facility holds that license or registration.

(4) ~~A municipality may require, as a condition of registration~~

~~or licensure, that a provisioning center or a safety compliance facility provide results of testing of its medical marihuana and medical marihuana products for quality control, purity, contaminants, or any other analysis to protect the health and safety of registered qualifying patients and to assure compliance with this act and an ordinance adopted by the municipality as described in this section~~.

Sec. 6. (1) The exemptions for a provisioning center or safety compliance facility under section 3 or 4 apply only if the indicated activities are carried out in compliance with this act.

(2) Except for the Michigan medical marihuana act, all other acts and parts of acts inconsistent with this act do not apply to the use of medical marihuana as provided for by this act.

Sec. 7. (1) ~~Unless explicitly allowed by a municipal ordinance that was in effect before the effective date of this act~~, a provisioning center or a safety compliance facility shall not be located within 1,000 feet of the property line of a preexisting primary or secondary school.

(2) A provisioning center shall not share office space with a physician.

(3) The premises of a provisioning center shall have a security alarm system that is enabled when a provisioning center agent is not present.

(4) A provisioning center shall not sell, transfer, or dispense a marihuana-infused product for use as medical marihuana unless it is labeled with both of the following:

(a) The weight of marihuana contained in the product.

(b) The words "WARNING: This product contains marihuana. For a registered qualifying patient's medical use only." or substantially similar text.

(5) A provisioning center shall not advertise medical marihuana for sale on a billboard, television, or radio. The department of licensing and regulatory affairs may promulgate rules restricting advertising of medical marihuana. The rules shall not prohibit appropriate signs on the property of a provisioning center, internet websites for a provisioning center ~~or registered primary caregiver~~, listings in business directories or telephone books, listings in trade or medical print or online publications, or advertising the sponsorship of health or not-for-profit charity or advocacy events.

(6) A provisioning center or safety compliance facility shall not knowingly employ an individual who has been convicted of an excluded felony offense during the immediately preceding 10-year period or who is under 21 years of age. A provisioning center or safety compliance facility shall perform a background check on an individual before he or she is offered employment to verify that he

or she has not been convicted of an excluded felony offense during the immediately preceding 10-year period.

(7) A provisioning center shall maintain records listing each individual employed by the provisioning center, including the beginning employment date and the date a background check was performed.

(8) A provisioning center shall not allow on-site consumption of medical marihuana, except that a provisioning center agent or employee who is a registered qualifying patient may be permitted to use ~~a~~ medical marihuana ~~infused topical product~~.

(9) ~~A provisioning center shall not dispense more than 2.5 ounces of useable marihuana in any 10-day period to a registered qualifying patient, directly or through his or her registered primary caregiver~~.

(10) ~~A provisioning center shall ensure compliance with the dispensing limit under subsection (9) by maintaining internal, confidential dispensing records that specify the amount of medical marihuana dispensed to each registered qualifying patient and registered primary caregiver and whether it was dispensed directly to the registered qualifying patient or the registered primary caregiver. Each entry shall include the date and time the medical marihuana was dispensed. Entries shall be maintained for at least 90 days. For any registered qualifying patient or registered~~

~~qualifying caregiver in possession of a registry identification card, a record shall be kept using the patient's or caregiver's registry identification card number instead of the patient's or caregiver's name. Confidential dispensing records under this act are subject to reasonable inspection by a municipal employee authorized to inspect provisioning centers under municipal law to ensure compliance with this act, but may be stored off-site. Confidential dispensing records under this act are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246. Except as otherwise required by a court order, a provisioning center shall not disclose confidential dispensing records to any person other than a municipal employee performing an inspection in compliance with this subsection or to a provisioning center agent.~~

(11) A provisioning center agent shall not dispense, transfer, or sell medical marihuana to an individual knowing that the individual is not a registered qualifying patient, registered primary caregiver~~, or provisioning center agent working on behalf~~

~~of a provisioning center that is not prohibited from operating or obtaining medical marihuana from other provisioning centers under municipal law~~.

(12) Before medical marihuana is dispensed or sold from a provisioning center, in addition to complying with subsection (13), a provisioning center agent shall do 1 of the following:

(a) Verify that the individual requesting medical marihuana holds what the provisioning center agent reasonably believes to be a valid, unexpired registry identification card.

(b) Require the individual requesting medical marihuana to do all of the following:

(*i*) Certify that he or she is a qualifying patient **OR CAREGIVER** who submitted a valid, complete application **OR CHANGE FORM** for a registry identification card under the Michigan medical marihuana act at least 20 days earlier.

(*ii*) Certify that, to the best of his or her knowledge, this state has not denied the application described in subparagraph (*i*) or issued a registry identification card.

(*iii*) Present a copy of the completed registry identification card application and proof of receipt by the state department that processes medical marihuana registry identification card applications at least 20 days before the date of the requested sale or transaction.

(c) ~~If the individual requesting medical marihuana indicates that he or she is a provisioning center agent, make a diligent, good-faith effort to verify that the individual is a provisioning center agent for a provisioning center that is allowed to operate by a municipality~~.

(13) Before medical marihuana is dispensed or sold from a provisioning center, a provisioning center agent shall make a diligent, good-faith effort to determine that the individual named in the registry identification card or other documentation submitted under subsection (12) is the individual seeking to obtain medical marihuana, by examining what the provisioning center agent reasonably believes to be valid government-issued photo identification.

(14) An individual who is under 21 years of age or who has been convicted of an excluded felony offense during the immediately preceding 10-year period shall not serve as a provisioning center agent or safety compliance facility agent. An individual who has not maintained a residence in this state for 2 years or more shall not serve as a principal officer, board member, or operator of a provisioning center or of a safety compliance facility.

(15) A provisioning center agent shall not, for monetary compensation, refer an individual to a physician.

(16) A provisioning center or safety compliance facility shall

not permit a physician to advertise in a provisioning center or safety compliance facility or to hold any financial interest in or receive any compensation from the provisioning center or safety compliance facility.

(17) A provisioning center agent or safety compliance facility agent shall not transport or possess medical marihuana on behalf of the provisioning center or safety compliance facility in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless all of the following conditions are met:

(a) The agent possesses a document signed and dated by a manager or operator of the provisioning center or safety compliance facility that employs the agent, stating the agent's name, the date the medical marihuana will be transported, the approximate amount of medical marihuana transported, and the name of the provisioning center or safety compliance facility from which the medical marihuana is being transported.

(b) The medical marihuana is located in 1 or more of the following:

(*i*) An enclosed locked container, such as a safe, briefcase, or other case.

(*ii*) The trunk of the vehicle.

(*iii*) A space that is inaccessible from the passenger compartment of the vehicle.

Sec. 8. (1) A provisioning center that violates section 7(1) or (2) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $5,000.00. A city or county in which the provisioning center or safety compliance facility operates in violation of section 7(1) or (2) may petition the court for an injunction to close the provisioning center or safety compliance facility.

(2) A person who violates section 7(3) to (10), (15), or (16) is responsible for a state civil infraction and may be ordered to pay a civil fine of not more than $1,000.00.

(3) A person who transfers medical marihuana in violation of section 7(11) to (13) or who works in violation of section 7(14) is not exempt from arrest, prosecution, or criminal or other penalties under section 3 or 4.

(4) A person who violates section 7(17) is guilty of a misdemeanor punishable by imprisonment for not more than 30 days or a fine of not more than $500.00, or both.

Sec. 9. (1) A municipality may establish procedures to suspend or revoke a registration, license, or other permission to operate if a provisioning center knowingly or negligently allows medical marihuana to be dispensed to an individual who is not a registered qualifying patient or registered primary caregiver or if a provisioning center or safety compliance facility commits multiple

or serious violations of this act or local ordinances.

(2) This act does not require the violation of federal law and does not give immunity from prosecution under federal law.

(3) This act does not prevent federal enforcement of federal law.

Sec. 10. (1) Except as otherwise provided in this act, a ~~visiting qualifying patient~~, registered qualifying patient, or registered primary caregiver who supplies, sells, transfers, or delivers marihuana ~~seeds~~ to a provisioning center that is registered, licensed, or otherwise allowed by the municipality in which it operates in compliance with this act is not subject to any of the following for engaging in that activity:

(a) Criminal penalties under state law or local ordinances.

(b) State or local civil prosecution.

(c) Search or inspection, except for an inspection authorized by the municipality.

(d) Seizure.

(e) Any sanction, including disciplinary action or denial of a right or privilege, by a business or occupational or professional licensing board or bureau.

(2) Except as otherwise provided in this act, a registered qualifying patient is not subject to any of the inspections or sanctions listed in subsection (1)(a) to (e) for any of the

following:

(a) Purchasing or acquiring not more than 2.5 ounces of usable marihuana ~~from 1 or more provisioning centers within a 10-day period~~.

(b) Supplying, selling, transferring, or delivering medical marihuana to a provisioning center that is registered, licensed, or otherwise allowed by the municipality in which it operates if all of the following requirements are met:

(*i*) The medical marihuana was produced by the registered qualifying patient ~~or registered primary caregiver~~.

(*ii*) ~~The municipality in which the provisioning center operates allows the transfer of medical marihuana from a registered qualifying patient to a provisioning center~~.

(*iii*) The amount of medical marihuana transferred does not exceed the amount of medical marihuana the registered qualifying patient is allowed to possess under the Michigan medical marihuana act.

(3) Except as otherwise provided in this act, a registered primary caregiver is not subject to any of the inspections or sanctions listed in subsection (1)(a) to (e) for any of the following:

(a) Purchasing or acquiring from 1 or more provisioning centers not more than 2.5 ounces of usable marihuana ~~in a 10-day~~

~~period~~ on behalf of a registered qualifying patient who has designated the registered primary caregiver on his or her application to the state department administering the medical marihuana program under the Michigan medical marihuana act.

(b) Supplying, selling, transferring, or delivering medical marihuana to a provisioning center that is registered, licensed, or otherwise allowed by the municipality in which it operates if all of the following requirements are met:

(*i*) The medical marihuana was produced by the registered primary caregiver and is excess medical marihuana above the amount necessary to satisfy the needs of the registered qualifying patients the primary caregiver is designated to serve.

(*ii*) ~~The municipality in which the provisioning center operates allows the transfer of medical marihuana from a registered primary caregiver to a provisioning center~~.

(*iii*) The amount of medical marihuana transferred does not exceed the amount of medical marihuana the registered primary caregiver is allowed to possess under the Michigan medical marihuana act.

MICHIGAN MEDICAL MARIHUANA ACT (EXCERPT)
Initiated Law 1 of 2008

333.26426 Administration and enforcement of rules by department.

6. Administering the Department's Rules.

Sec. 6. (a) The department shall issue registry identification cards to qualifying patients who submit the following, in accordance with the department's rules:

(1) A written certification;

(2) Application or renewal fee;

(3) Name, address, and date of birth of the qualifying patient, except that if the applicant is homeless, no address is required;

(4) Name, address, and telephone number of the qualifying patient's physician;

(5) Name, address, and date of birth of the qualifying patient's primary caregiver, if any;

(6) Proof of Michigan residency. For the purposes of this subdivision, a person shall be considered to have proved legal residency in this state if any of the following apply:

(i) The person provides a copy of a valid, lawfully obtained Michigan driver license issued under the Michigan vehicle code, 1949 PA 300, MCL 257.1 to 257.923, or an official state personal identification card issued under 1972 PA 222, MCL 28.291 to 28.300.

(ii) The person provides a copy of a valid Michigan voter registration.

(7) If the qualifying patient designates a primary caregiver, a designation as to whether the qualifying patient or primary caregiver will be allowed under state law to possess marihuana plants for the qualifying patient's medical use.

(b) The department shall not issue a registry identification card to a qualifying patient who is under the age of 18 unless:

(1) The qualifying patient's physician has explained the potential risks and benefits of the medical use of marihuana to the qualifying patient and to his or her parent or legal guardian;

(2) The qualifying patient's parent or legal guardian submits a written certification from 2 physicians; and

(3) The qualifying patient's parent or legal guardian consents in writing to:

(A) Allow the qualifying patient's medical use of marihuana;

(B) Serve as the qualifying patient's primary caregiver; and

(C) Control the acquisition of the marihuana, the dosage, and the frequency of the medical use of marihuana by the qualifying patient.

(c) The department shall verify the information contained in an application or renewal submitted pursuant to this section, and shall approve or deny an application or renewal within 15 business days of receiving it. The department may deny an application or renewal only if the applicant did not provide the information required pursuant to this section, or if the department determines that the information provided was falsified. Rejection of an application or renewal is considered a final department action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the circuit court for the county of Ingham.

(d) The department shall issue a registry identification card to the primary caregiver, if any, who is named in a qualifying patient's approved application; provided that each qualifying patient can have no more than **+ 2** primary caregiver**S**, and a primary caregiver may assist no more than ~~5~~ **10** qualifying patients with their medical use of marihuana.

(e) The department shall issue registry identification cards within 5 business days of approving an application or renewal, which shall expire 2 years after the date of issuance. Registry identification cards shall contain all of the following:

(1) Name, address, and date of birth of the qualifying patient.

(2) Name, address, and date of birth of the primary caregiver, if any, of the qualifying patient.

(3) The date of issuance and expiration date of the registry identification card.

(4) A random identification number.

(5) A photograph, if the department requires one by rule.

(6) A clear designation showing whether the primary caregiver or the qualifying patient will be allowed under state law to possess the marihuana plants for the qualifying patient's medical use, which shall be determined based solely on the qualifying patient's preference.

(f) If a registered qualifying patient's certifying physician notifies the department in writing that the patient has ceased to suffer from a debilitating medical condition, the card shall become null and void upon notification by the department to the patient.

(g) Possession of, or application for, a registry identification card shall not constitute probable cause or reasonable suspicion, nor shall it be used to support the search of the person or property of the person possessing or applying for the registry identification card, or otherwise subject the person or property of the person to inspection by any local, county or state governmental agency.

(h) The following confidentiality rules shall apply:

(1) Subject to subdivisions (3) and (4), applications and supporting information submitted by qualifying patients, including information regarding their primary caregivers and physicians, are confidential.

(2) The department shall maintain a confidential list of the persons to whom the department has issued registry identification cards. Except as provided in subdivisions (3) and (4), individual names and other identifying information on the list are confidential and are exempt from disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(3) The department shall verify to law enforcement personnel whether a registry identification card is valid, without disclosing more information than is reasonably necessary to verify the authenticity of the registry identification card.

(4) A person, including an employee, contractor, or official of the department or another state agency or local unit of government, who discloses confidential information in violation of this act is guilty of a misdemeanor, punishable by imprisonment for not more than 6 months, or a fine of not more than $1,000.00, or both. Notwithstanding this provision, department employees may notify law enforcement about falsified or fraudulent information submitted to the department.

(i) The department shall submit to the legislature an annual report that does not disclose any identifying information about qualifying patients, primary caregivers, or physicians, but does contain, at a minimum, all of the following information:

(1) The number of applications filed for registry identification cards.

(2) The number of qualifying patients and primary caregivers approved in each county.

(3) The nature of the debilitating medical conditions of the qualifying patients.

(4) The number of registry identification cards revoked.

(5) The number of physicians providing written certifications for qualifying patients.

(j) The department may enter into a contract with a private contractor to assist the department in performing its duties under this section. The contract may provide for assistance in processing and issuing registry identification cards, but the department shall retain the authority to make the final determination as to issuing the registry identification card. Any contract shall include a provision requiring the contractor to preserve the confidentiality of information in conformity with subsection (h).

(k) Not later than 6 months after the effective date of the amendatory act that added this subsection, the department shall appoint a panel to review petitions to approve medical conditions or treatments for addition to the list of debilitating medical conditions under the administrative rules. The panel shall meet at least twice each year and shall review and make a recommendation to the department concerning any petitions that have been submitted that are completed and include any documentation required by administrative rule.

(1) A majority of the panel members shall be licensed physicians, and the panel shall provide recommendations to the department regarding whether the petitions should be approved or denied.

(2) All meetings of the panel are subject to the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(l) The Michigan medical marihuana fund is created within the state treasury. All fees collected under this act shall be deposited into the fund. The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments. Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. The department of licensing and regulatory affairs shall be the administrator of the fund for auditing purposes. The department of licensing and regulatory affairs shall expend money from the fund, upon appropriation, for the operation and oversight of the Michigan medical marihuana program.

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.7212 Schedule 1; controlled substances included.

Sec. 7212.

(1) The following controlled substances are included in schedule 1:

Acetylmethadol	Difenoxin	Noracymethadol
Allylprodine	Dimenoxadol	Norlevorphanol
Alpha-acetylmethadol	Dimepheptanol	Normethadone
Alphameprodine	Dimethylthiambutene	Norpipanone
Alphamethadol	Dioxaphetyl butyrate	Phenadoxone
Benzethidine	Dipipanone	Phenampromide
Betacetylmethadol	Ethylmethylthiambutene	Phenomorphan
Betameprodine	Etonitazene	Phenoperidine
Betamethadol	Etoxeridine	Piritramide
Betaprodine	Furethidine	Proheptazine
Clonitazene	Hydroxypethidine	Properidine
Dextromoramide	Ketobemidone	Propiram
Diampromide	Levomoramide	Racemoramide
Diethylthiambutene	Levophenacylmorphan	Trimeperidine
	Morpheridine	

Acetorphine	Drotebanol	Morphine-N-Oxide
Acetyldihydrocodeine	Etorphine	Myrophine

Benzylmorphine	Heroin	Nicocodeine
Codeine methylbromide	Hydromorphinol	Nicomorphine
Codeine-N-Oxide	Methyldesorphine	Normorphine
Cyprenorphine	Methyldihydromorphine	Pholcodine
Desomorphine	Morphine methylbromide	Thebacon
Dihydromorphine	Morphine methylsulfonate	

2-Methylamino-1-phenylpropan-1-one

Some trade and other names:

Methcathinone

Cat

Ephedrone

3, 4-methylenedioxy amphetamine

5-methoxy-3, 4-methylenedioxy

amphetamine

3, 4, 5-trimethoxy amphetamine

Bufotenine

Some trade and other names:

3-(B-dimethylaminoethyl)-5 hydrozyindole

3-(2-dimethylaminoethyl)-5 indolol

N,N-dimethylserotonin; 5-hydroxy-N-dimethyltryptamine

Mappine

2, 5-Dimethoxyamphetamine

Some trade or other names:

2, 5-Dimethoxy-a-methylphenethylamine; 2,5-DMA

4-Bromo-2, 5-Dimethoxyamphetamine

Some trade or other names:

4-bromo-2, 5 dimethoxy-a-methylphenethylamine; 4-bromo

2,5-DMA

Diethyltryptamine

Some trade and other names:

N,N-Diethyltryptamine; DET

Dimethyltryptamine

Some trade or other names:

DMT

4-methyl-2, 5-dimethoxyamphetamine

Some trade and other names:

4-methyl-2, 5-dimethoxy-a-methyl-phenethylamine

DOM, STP

4-methoxyamphetamine

Some trade or other names:

4-methoxy-a-methylphenethylamine; paramethoxy
amphetamine;

PMA

Ibogaine

Some trade and other names:

7-Ethyl-6,6a,7,8,9,10,12,13

Octahydro-2-methoxy-6,9-methano-5H-

pyrido (1, 2:1, 2 azepino 4, 5-b) indole

tabernanthe iboga

Lysergic acid diethylamide

~~Marihuana~~

Mecloqualone

Mescaline

Peyote

N-ethyl-3 piperidyl benzilate

N-methyl-3 piperidyl benzilate

Psilocybin

Psilocyn

Thiophene analog of phencyclidine

Some trade or other names:

1-(1-(2-thienyl)cyclohexyl) piperidine)

2-thienyl analog of phencyclidine; TPCP

(d) Synthetic equivalents of the substances contained in the plant, or in the resinous extractives of cannabis and synthetic substances, derivatives, and their isomers with similar chemical structure or pharmacological activity, or both, such as the following, are included in schedule 1:

(i) Δ1 cis or trans tetrahydrocannabinol, and their optical isomers.

(ii) Δ6 cis or trans tetrahydrocannabinol, and their optical isomers.

(iii) Δ3,4, cis or trans tetrahydrocannabinol, and their optical isomers.

(e) Synthetic cannabinoids. As used in this subdivision, "synthetic cannabinoids" includes any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in this schedule or in schedules II through V, is not approved by the federal food and drug administration as a drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues (analogs), and salts of isomers and homologues (analogs), unless specifically excepted,

whenever the existence of these salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible within the specific chemical designation:

(i) Any compound containing a 3-(1-naphthoyl)indole structure, also known as napthoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-007, JWH-015, JWH-018, JWH-019, JWH-073, JWH-081, JWH-122, JWH-200, JWH-210, JWH-398, AM-1220, AM-2201, and WIN-55, 212-2.

(ii) Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure, also known as napthylmethylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-175, and JWH-184.

(iii) Any compound containing a 3-(1-naphthoyl)pyrrole structure, also known as naphthoylpyrroles with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the pyrrole ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-370, JWH-030.

(iv) Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indene ring to any extent and whether or not substituted on the naphthyl ring to any extent. Examples of this structural class include but are not limited to: JWH-176.

(v) Any compound containing a 3-phenylacetylindole structure, also known as phenacetylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the phenyl ring to any extent. Examples of this structural class include but are not limited to: RCS-8 (SR-18), JWH-250, JWH-203, JWH-251, and JWH-302.

(vi) Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure, also known as cyclohexylphenols, with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not substituted on the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to: CP-47,497 (and homologues(analogs)), cannabicyclohexanol, and CP-55,940.

(vii) Any compound containing a 3-(benzoyl)indole structure, also known as benzoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the indole ring to any extent and whether or not substituted on the phenyl ring to any extent. Examples of this structural class include but are not limited to: AM-694, pravadoline (WIN-48,098), RCS-4, AM-630, AM-679, AM-1241, and AM-2233.

(viii) Any compound containing a 11-hydroxy-Δ8-tetrahydrocannabinol structure, also known as dibenzopyrans, with further substitution on the 3-pentyl group by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkyethyl, 1-(n-methyl-2- piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group. Examples of this structural class include but are not limited to: HU-210, JWH-051, JWH-133.

(ix) Any compound containing a 3-(L-adamantoyl)indole structure, also known as adamantoylindoles, with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2- piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted on the adamantyl ring system to any extent. Examples of this structural class include but are not limited to: AM-1248.

(x) Any other synthetic chemical compound that is a cannabinoid receptor agonist and mimics the pharmacological effect of naturally occurring cannabinoids that is not listed in schedules II through V and is not approved by the federal food and drug administration as a drug.

(f) Compounds of structures referred to in subdivision (d), regardless of numerical designation of atomic positions, are included.

Some trade and other names:

Sodium oxybate

4-hydroxybutanoic acid monosodium salt

Some trade and other names:

Ecstasy

MDMA

Some trade and other names:

BZP

Benzylpiperazine

1-(phenylmethyl)-piperazine

Some trade and other names:

MCPP

Some trade and other names:

TFMPP

Some trade and other names:

2C-B-BZP

(m) All of the following:

Some trade and other names:

HU-210

Some trade and other names:

CP47,497

Some trade and other names:

JWH-018

Some trade and other names:

JWH-073

Some trade and other names:

JWH-015

Some trade and other names:

JWH-200

Some trade and other names:

JWH-250

Some trade and other names:

4-MMC, M-Cat, meow meow, miaow miaow, bounce, bubbles, bubble love, mad cow, plant food, drone, and neo doves

Some trade and other names:

MPBP

Some trade and other names:

MDPV, Bath salts, charge plus, cloud nine, hurricane Charlie, ivory wave, ocean, red dove, scarface, sonic, white dove, white lightning

Some trade and other names:

MDAI

Woof-woof

Some trade and other names:

NRG-1

Rave

(s) Pyrovalerone (1-(4-Methylphenyl)-2-(1-pyrrolidinyl)-1-pentanone)

Some trade and other names:

Khat

Qat

(u) Cathinone.

(v) Salvia divinorum; except as provided in subdivision (w), all parts of the plant presently classified botanically as salvia divinorum, whether growing or not; the leaves and seeds of that plant; any extract from any part of that plant; and every compound, salt, derivative, mixture, or preparation of that plant or its leaves, seeds, or extracts.

(w) Salvinorin A.

(x) Synthetic cathinones. As used in this subdivision, "synthetic cathinones" includes any material, compound, mixture, or preparation that is not otherwise listed as a controlled substance in this schedule or in schedules II through V, is not approved by the federal food and drug administration as a drug, and contains any quantity of the following substances, their salts, isomers (whether optical, positional, or geometric), homologues (analogs), and salts of isomers and homologues (analogs), unless specifically excepted, whenever the existence of these salts, isomers, homologues (analogs), and salts of isomers and homologues (analogs) is possible within the specific chemical designation:

(i) Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at the nitrogen atom by an alkyl group, cycloalkyl group, or incorporation into a heterocyclic structure. Examples of this structural class include, but are not limited to, dimethylcathinone, ethcathinone, and alpha-pyrrolidinopropiophenone.

(ii) Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at the 3-position carbon with an alkyl, haloalkyl, or alkoxy group. Examples of this structural class include, but are not limited to, naphyrone.

(iii) Any compound containing a 2-amino-1-propanone structure with substitution at the 1-position with a monocyclic or fused polycyclic ring system and a substitution at any position of the ring system with an alkyl, haloalkyl, halogen, alkylenedioxy, or alkoxy group, whether or not further substituted at any position on the ring system to any extent. Examples of this structural class include, but are not limited to, mephedrone, methylone, and 3-fluoromethylone.

(2) For purposes of subsection (1), "isomer" includes the optical, position, and geometric isomers.

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.7401 Manufacturing, creating, delivering, or possessing with intent to manufacture, create, or deliver controlled substance, prescription form, or counterfeit prescription form; dispensing, prescribing, or administering controlled substance; violations; penalties; consecutive terms; discharg from lifetime probation; ~~"plant" defined~~.

Sec. 7401.

(1) Except as authorized by this article, a person shall not manufacture, create, deliver, or possess with inten to manufacture, create, or deliver a controlled substance, a prescription form, or a counterfeit prescription form. A practitioner licensed by the administrator under this article shall not dispense, prescribe, or administer a controlled substance for other than legitimate and professionally recognized therapeutic or scientific purposes or outside the scope of practice of the practitioner, licensee, or applicant.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(iv) and:

(i) Which is in an amount of 1,000 grams or more of any mixture containing that substance is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $1,000,000.00, or both.

(ii) Which is in an amount of 450 grams or more, but less than 1,000 grams, of any mixture containing that substance is guilty of a felony and punishable by imprisonment for not more than 30 years or a fine of not more than $500,000.00, or both.

(iii) Which is in an amount of 50 grams or more, but less than 450 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $250,000.00, or both.

(iv) Which is in an amount less than 50 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $25,000.00, or both.

(b) Either of the following:

(i) A substance described in section 7212(1)(h) or 7214(c)(ii) is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $25,000.00, or both.

(ii) Any other controlled substance classified in schedule 1, 2, or 3, except marihuana is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than $10,000.00, or both.

(c) A substance classified in schedule 4 is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $2,000.00, or both.

~~(d) Marihuana or a mixture containing marihuana is guilty of a felony punishable as follows:~~

~~(i) If the amount is 45 kilograms or more, or 200 plants or more, by imprisonment for not more than 15 years or a fine of not more than $10,000,000.00, or both.~~

~~(ii) If the amount is 5 kilograms or more but less than 45 kilograms, or 20 plants or more but fewer than 200 plants, by imprisonment for not more than 7 years or a fine of not more than $500,000.00, or both.~~

~~(iii) If the amount is less than 5 kilograms or fewer than 20 plants, by imprisonment for not more than 4 years or a fine of not more than $20,000.00, or both.~~

~~(c) A substance classified in schedule 5 is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.~~

(f) A prescription form or a counterfeit prescription form is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than $5,000.00, or both.

(3) A term of imprisonment imposed under subsection (2)(a) may be imposed to run consecutively with any term of imprisonment imposed for the commission of another felony.

(4) If an individual was sentenced to lifetime probation under subsection (2)(a)(iv) as it existed before March 1, 2003 and the individual has served 5 or more years of that probationary period, the probation officer for that individual may recommend to the court that the court discharge the individual from probation. If an individual's probation officer does not recommend discharge as provided in this subsection, with notice to the prosecutor, the individual may petition the court seeking resentencing under the court rules. The court may discharge an individual from probation as provided in this subsection. An individual may file more than 1 motion seeking resentencing under this subsection.

~~(5) As used in this section, "plant" means a marihuana plant that has produced cotyledons or a cutting of a marihuana plant that has produced cotyledons.~~

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.7403 Knowingly or intentionally possessing controlled substance, controlled substance analogue prescription form; violations; penalties; discharge from lifetime probation.

Sec. 7403.

(1) A person shall not knowingly or intentionally possess a controlled substance, a controlled substance analogue, or a prescription form unless the controlled substance, controlled substance analogue, or prescription form was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by th article.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 that is a narcotic drug or a drug described in section 7214(a)(iv), and:

(i) Which is in an amount of 1,000 grams or more of any mixture containing that substance is guilty of a felony punishable by imprisonment for life or any term of years or a fine of not more than $1,000,000.00, or both.

(ii) Which is in an amount of 450 grams or more, but less than 1,000 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 30 years or a fine of not more than $500,000.00, or both.

(iii) Which is in an amount of 50 grams or more, but less than 450 grams, of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than $250,000.00, or both.

(iv) Which is in an amount of 25 grams or more, but less than 50 grams of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $25,000.00, or both.

(v) Which is in an amount less than 25 grams of any mixture containing that substance is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $25,000.00, or both.

(b) Either of the following:

(i) A substance described in section 7212(1)(h) or 7214(c)(ii) is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $15,000.00, or both.

(ii) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance for which a penalty is prescribed in subdivision (a), (b)(i), (c), or (d), or a controlled substance analogue is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $2,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5 is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

~~(d) Marihuana is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.~~

(e) A prescription form is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) If an individual was sentenced to lifetime probation under subsection (2)(a)(iv) as it existed before March 1, 2003 and the individual has served 5 or more years of that probationary period, the probation officer for that individual may recommend to the court that the court discharge the individual from probation. If an individual's probation officer does not recommend discharge as provided in this subsection, with notice to the prosecutor, the individual may petition the court seeking resentencing under the court rules. The court may discharge an individual from probation as provided in this subsection. An individual may file more than 1 motion seeking resentencing under this subsection.

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.7404 Use of controlled substance or controlled substance analogue; violations; penalties.

Sec. 7404.

(1) A person shall not use a controlled substance or controlled substance analogue unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of the practitioner's professional practice, or except as otherwise authorized by this article.

(2) A person who violates this section as to:

(a) A controlled substance classified in schedule 1 or 2 as a narcotic drug or a drug described in section 7212(1)(h) or 7214(a)(iv) or (c)(ii) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $2,000.00, or both.

(b) A controlled substance classified in schedule 1, 2, 3, or 4, except a controlled substance for which a penalty is prescribed in subdivision (a), (c), or (d), or a controlled substance analogue, is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(c) Lysergic acid diethylamide, peyote, mescaline, dimethyltryptamine, psilocyn, psilocybin, or a controlled substance classified in schedule 5 is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not more than $500.00, or both.

(d) ~~Marihuana, c~~Catha edulis, salvia divinorum, or a substance described in section 7212(1)(i) is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than $100.00, or both.